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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/746,769	12/26/2000	Ippo Aoki	04329.2483	9942

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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER  
LLP  
901 NEW YORK AVENUE, NW  
WASHINGTON, DC 20001-4413

EXAMINER

DAO, MINH D

ART UNIT PAPER NUMBER

2682

DATE MAILED: 10/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/746,769

Applicant(s)

AOKI ET AL.

Examiner

MINH D. DAO

Art Unit

2682

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 3 and 7-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 3 and 7-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 3, 7 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Tyneski et al. (US 5,584,054).

Regarding claim 3, Tyneski teaches a radio communication apparatus (see fig. 1, handset 100) comprising: means for transmitting a radio signal (see figs. 1 and 2, antenna 110 of handset 100); means for processing information (see col. 2, lines 3-7); means for receiving an instruction (see fig. 1, hinge 106; col. 2, lines 8-13); and means for enabling the processing means and the radio signal receiving means when the apparatus is switched on (In this case, since the handset of Tyneski can be a cellular phone, therefore its hardware and software should conventionally be initiated after the power of the unit is switched on so that the handset can start communicating with nearby base stations.), and for enabling the transmitting means when the instruction receiving means thereafter receives a predetermined instruction (see col. 2, lines 50-55, in this once flap 104 of the handset is closed, the handset is used as a cordless phone and therefore is able to transmit signals).

Regarding claim 7, Tyneski teaches a radio communication apparatus having a first mode in which the apparatus emits radio waves and a second mode in which the apparatus receives but does not emit radio waves, comprising: means for receiving an instruction (see fig. 1, hinge 106; col. 2, lines 8-13); and means for enabling the first mode when the apparatus is switched on (In this case, since the handset of Tyneski can be a cellular phone, therefore its hardware and software should conventionally be initiated after the power of the unit is switched on so that the handset can start communicating with nearby base stations.), and for enabling the second mode when the receiving means thereafter receives a predetermined instruction (see fig. 2; col. 1, line 64 to col. 2, line 55).

Regarding claim 8, Tyneski a radio communication apparatus, comprising: teaches means for transmitting a radio signal (see figs. 1 and 2, antenna 110 of handset 100); means for receiving a radio signal (see figs. 1 and 2, antenna 110 of handset 100); means for processing information (see col. 2, lines 3-7); means for receiving an instruction (see fig. 1, hinge 106; col. 2, lines 8-13); and means for prohibiting the radio signal transmission by the transmitting means in accordance with the instruction, while keeping the processing means and the radio signal receiving means operable (see fig. 2; col. 1, line 64 to col. 2, line 55).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tyneski in view of Johnson et al. (US 5,001,554).

Regarding claim 9, Tyneski teaches a radio communication apparatus having a first mode in which the apparatus transmits a radio signal and a second mode in which the apparatus does not transmit a radio signal, comprising:

means for receiving an instruction (see fig. 1, hinge 106; col. 2, lines 8-13);

means for enabling the apparatus in the second mode when the receiving means receives a predetermined instruction (see fig. 2; col. 1, line 64 to col. 2, line 55), and

means for enabling the apparatus in the first mode when the receiving means does not receive the predetermined instruction (see fig. 2; col. 1, line 64 to col. 2, line 55). However, Tyneski does not teach enabling the first and second mode when the receiving means receives a predetermined instruction within a predetermined period of time from switch-on of the apparatus. Johnson, in an similar electronic circuitry field, teaches switching between modes of operation that is dependent on the particular depression of a predetermined key of a keyboard within a predetermined period of time

after the application of power. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to provide the teaching of Johnson to Tyneski in order to be able to switch between modes of operation as taught by Johnson.

Regarding claim 10, the claim has the same limitations as that of claim 9, and therefore is interpreted and rejected for the same reason set forth in the rejection of claim 9.

### ***Response to Arguments***

3. Applicant's arguments filed 07/22/2005 have been fully considered but they are not persuasive. Regarding claim 3, applicant argues that Tyneski does not teach "means for enabling the processing means when the apparatus is switched on". Examiner disagrees. In this case, since the handset of Tyneski can be a cellular phone, therefore its hardware and software should conventionally be initiated after the power of the unit is switched on so that the handset can start communicating with nearby base stations. Examiner also disagrees with applicant's argument that Tyneski does not teach that the transmitting means is enabled when the instruction receiving means thereafter receives a predetermined instruction". The action of closing the flap of Tyneski so that the handset can communicate as a cordless phone clearly reads on the above limitation of the present invention.

***Conclusion***

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

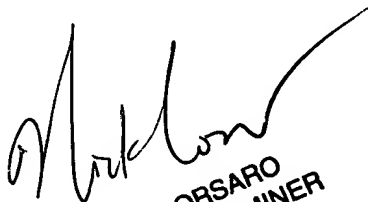
Any inquiry concerning this communication or earlier communications from the examiner should be directed to MINH D. DAO whose telephone number is 571-272-7851. The examiner can normally be reached on 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, NICK CORSARO can be reached on 571-272-7876. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2682

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Minh Dao *MD*  
Art Unit 2682  
September 23, 2005

  
NICK CORSARO  
PRIMARY EXAMINER